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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,040	12/09/2003	Matthew Bullock	10.065.024	2990

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EXAMINER

GORDON, STEPHEN T

ART UNIT PAPER NUMBER

3612

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,040

Applicant(s)

BULLOCK, MATTHEW

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5 and 7-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant should note, the instant application as filed contains two claims numbered as "11". The second presented claim "11" and claims 12-22 have been consecutively renumbered as claims 12-23 respectively per rule 1.126 (37CFR). This action relies on this new numbering. Additionally, any future correspondence by applicant should utilize this numbering scheme.
2. Applicant failed to respond to the election of species requirement included in the last office action in his response of 1-18-05— note paragraph 5 of the action mailed 12-20-04. Applicant's attorney was contacted via telephone to complete the requirement. Specifically, during a telephone conversation with Bradford Kile on 3-3-05 a provisional election was made with traverse to prosecute the invention of figures 3 and 9, claims 1-3 and 6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4-5 and 7-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Applicant should note, claim 1 at first glance would appear to read only on the non-elected embodiment of figure 13 (note reference to spacing of adhesive strips). In as much as the adhesive strips of figure 3 are deemed spaced at least to some degree to correspond to corrugation land areas and in an effort to give applicant the broadest reasonable interpretation of the elected embodiment, claim 1 is deemed to read on the elected embodiment of figure 3. Note also claims 4 and 5 read on the non-elected figure 8 embodiment. Independent claim 7 reads on the non-elected figure 8 embodiment. The first claim "11" reads on the non-elected figure 13 embodiment.

3. Claims 4-5 and 7-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant timely traversed the restriction (election) requirement in the reply filed on 1-18-05 and in the telephone conversation of 3-3-05.

4. Applicant's election with traverse of group I in the reply filed on 1-18-05 is acknowledged. The traversal is on the ground(s) that the claim groups are not patentably distinct. This is not found persuasive because the inventions are deemed distinct and properly restrictable for the differences detailed in the last office action – paragraph 2 of the action mailed 12-20-04. Applicant is reminded that it is the evidence claims that are relied upon for purposes of determining restriction.

The requirement is still deemed proper and is therefore made FINAL.

5. It is requested that applicant cancel at least non-elected claims 7-23 in response to this action to facilitate the issue process if the application is ultimately allowed.

6. Figures 4, 5, and 6 should be designated by a legend such as –Prior Art-- because only that which is old is illustrated. Additionally, it appears figure 1 should be labeled as –Prior Art--. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: label 50 – figure 4. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: label 68 – paragraph 64. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37

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CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

9. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "56" has been used to designate both the corrugation valleys and the rolling tool. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

10. The use of the trademarks KEVLAR, VALERON, and MYLAR throughout the specification have been noted in this application. Each should be capitalized wherever they appear and be accompanied by generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

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11. The disclosure is objected to because of the following informalities: in paragraph 1 – line 5, the period should be a comma. In paragraph 50 – line 2, “docked” is misspelled. In paragraph 50 – line 5, “containers 10” should be –containers 12–. In paragraph 52 – line 7, “cargo” is misspelled. In paragraph 63 – line 2, “880” should be –88–. In paragraph 64 – line 3, “94” should be –92–. In paragraph 64 – line 7, “82” should be –90–. In paragraph 66 – line 8, “90” should be –100–. In paragraph 79 – line 2, “110” should be –100–. In paragraph 82 – line 2, “90” should be –100–.

Appropriate correction is required.

12. Claims 1-3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, “restraint” in line 3 should be –restraining—for consistency/clarity.

Lines 10-11 are somewhat confusing, and “the lateral spacing of land areas of the side wall surface” in the lines could be replaced with –lateral spacing of said land areas of one of the side wall surfaces—to clarify the claim in this regard as best understood. Line 12 is somewhat confusing, and “a side” could be replaced with –the side—to clarify the line as best understood. Finally, lines 13-14 are somewhat confusing, and “land” in line 13 could be replaced with –ones of said land—to clarify the claim in this regard as best understood.

Re claim 2, “the land surfaces” in line 7 lacks clear antecedent basis and should apparently be –the land surface areas–. Finally, line 9 is somewhat confusing,

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and “a transport” could be replaced with –the transport—to clarify the line as best understood.

Re claim 3, the recited “second” layer of line 3 is somewhat confusing as no first “layer” per se is previously recited. Note the term is used throughout the claim.

The term “said first layer” in line 5 lacks clear antecedent basis and should apparently be –said first strip—. Line 6 is somewhat confusing, and “a load” could be replaced with –the load—to clarify the line as best understood. In line 8, “said first and second layers” lacks clear antecedent basis (note discussion regarding the first layer above).

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 2, 3, and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Bullock '779.

Bullock teaches a load restraining strip applied to corrugated side walls of a transport container including first and second strips/layers of reinforcement material (40,42) as broadly claimed and as best understood. The device further includes a plurality of spaced transverse adhesive strips positioned and with attached release paper strips as broadly claimed and as best understood – see figure 5 embodiment.

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Re claim 1, the adhesive strips are applied to the land areas as well as the valleys of the corrugations. To the extent that the adhesive strips in the figure 5 embodiment are at least spaced to some degree to correspond to the land areas, they are deemed laterally spaced as broadly claimed. Again applicant should note, in an effort to give applicant the broadest possible interpretation of the elected embodiment of figure 3, this interpretation of Bullock '779 is consistent with such position. Applicant should take care that a position contrary to this may render the elected claims not fairly readable on the elected embodiment of figure 3 and properly withdrawable. In this situation, no pending claims would read on the elected embodiments.

Re claim 2, the release paper strips function as claimed.

Re claim 3, as noted above, strands 40,42 are deemed to comprise first and second reinforcement material as broadly claimed and as best understood.

Moreover, the reference teaches that such materials can be made of bonded strands – such bonding defining a first adhesive layer as broadly claimed and as best understood. The adhesive strips are deemed positioned/applied as broadly claimed and as best understood.

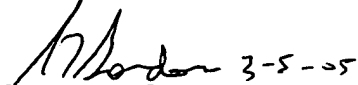
Re claim 6, at least one of the strands relied upon to read on the first strip is high strength and would comprise a monolithic material as broadly claimed.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note Blatt teaches a restraining strip relying on adhesive attachment.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg